

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

02/25/2002

CLERK OF THE COURT  
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza  
Deputy

LC 2001-000633

FILED: \_\_\_\_\_

STATE OF ARIZONA

CATHERINE E LEISCH

v.

JESSE S GARCIA

JOHN P DEWITT

PHX JUSTICE CT-SOUTH  
REMAND DESK CR-CCC

MINUTE ENTRY

SOUTH PHOENIX JUSTICE COURT

Cit. No. #CR2000-01787MI

Charge: INTERFERING WITH JUDICIAL PROCEEDING, A DOMESTIC  
VIOLENCE OFFENSE

DOB: N/A

DOC: 08/08/00

This Court has jurisdiction of this appeal pursuant to the  
Arizona Constitution Article VI, Section 16, and A.R.S. Section  
12-124(A).

This case was submitted to this Court without oral  
argument. This matter was assigned on January 29, 2002, and

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this decision is made within 30 days as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice. This Court has considered and reviewed the record of the proceedings from the South Phoenix Justice Court, and the Memoranda submitted by counsel.

Appellant was charged with Interfering with Judicial Proceeding, a Domestic Violence Offence in violation of A.R.S. Section 13-2810, a class 1 misdemeanor. A trial to the bench occurred and Appellant was found guilty. Appellant has filed a timely Notice of Appeal in this case.

Appellant claims that he was denied his right to confront and cross-examine the witnesses who testified against him by the trial court's ruling precluding evidence of motive and bias on the part of the State's witnesses. Appellant correctly contends that the bias and motives of the State's witnesses in testifying against him are relevant.<sup>1</sup> However, evidence that is otherwise relevant may be excluded as follows:

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence (emphasis added).<sup>2</sup>

Rule 403 appears to be particularly applicable to the instant case as Appellant was permitted to impeach the State's witnesses in several other ways concerning the issues of their bias and prejudice and motive for testifying against Appellant. However, assuming that the trial court did err in precluding additional impeachment of the State's witnesses concerning their bias, prejudice and motive for testifying, this Court's analysis

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<sup>1</sup> See State v. Jeffers, 135 Ariz. 404, 661 P.2d 1105 (1983); State v. Uriarte, 194 Ariz. 275, 981 P.2d 575 (Court of Appeals 1998).

<sup>2</sup> Rule 403, Ariz. Rules of Evidence.

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is not complete without considering whether this error, substantial as it may appear, could be considered harmless error. The Arizona Supreme Court has defined fundamental error as an error that:

Reaches the foundation of the case or takes from the Defendant a right essential to his defense, or is an error of such dimensions that it can not be said it is possible for a Defendant to have had a fair trial.<sup>3</sup>

And, the Arizona Supreme Court has also explained:

And, where there is substantial evidence in the record which will support the verdict and it can be said that the error did not contribute significantly to the verdict, beyond a reasonable doubt, reversal is not required.<sup>4</sup>

The trial judge was well aware of the State's witnesses' bias, prejudice and their motives for testifying against Appellant. Additional reasons for their bias and prejudice would not have contributed significantly to the trial court's decision. Additionally, the record reflects substantial evidence which supports the trial court's verdict in this case.

IT IS THEREFORE ORDERED affirming the judgment of guilt and sentence imposed.

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<sup>3</sup>*State v. King*, 158 Ariz. 419, 424, 763 P.2d 239, 244 (1988).

<sup>4</sup>*State v. Gallegos*, 178 Ariz. 1, 11, 870 P.2d 1097, 1107, cert.denied, 513 U.S. 934, 115 S.Ct. 330, 130 L.Ed.2d 289, Appeal after remand 185 Ariz. 340, 916 P.2d 1056, cert.denied 519 U.S. 996, 117 S.Ct. 489, 136 L.Ed.2d 382 (1994), citing *State v. Thomas*, 130 Ariz. 432, 436, 636 P.2d 1214, 1218 (1981).

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IT IS FURTHER ORDERED remanding this matter back to the  
South Phoenix Justice Court for all further and future  
proceedings in this case.